

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/553,524	Applicant(s) HUNTER ET AL.
Examiner MICHAEL VAN HANDEL	Art Unit 2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 57, 60-64 and 146-157.

Claim(s) withdrawn from consideration: 30-33, 36-39, 41-45, 47-50, 114-118 and 121-145.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

Continuation of 3: Applicant amended claim 57 to incorporate the limitations of dependent claim 60, thereby changing the language of claims 61-64. Applicant further amended claim 152 to incorporate the limitations of dependent claim 153, thereby changing the language of claims 154-157. As such, the amendment requires further search and/or consideration.

Regarding claims 57 and 152, the applicant requests evidentiary support for the examiner's Official Notice (that it is well known within the prior art to include indirect classification information in the header, such as using classification identifying PIDs of an MPEG stream, wherein the PIDs by definition of MPEG is located in the header) in the previous rejection. The examiner respectfully disagrees. The applicant specifically argues that the examiner has mischaracterized the PIDs, because PIDs identify the type of data stored in a packet payload and cannot be properly construed to teach classification information in a header compatible with comparing the classification information to preference information associated with the first viewer.

In support of the Official Notice, the examiner hereby provides the first edition of the MPEG-2 ISO/IEC 13818-1 specification and Schneidewend. The MPEG-2 specification defines a packet identifier (PID) as a unique integer value used to identify elementary streams of a program in a single or multi-program Transport Stream (p. 2). As noted in 2.4.1 of the MPEG-2 specification, a Transport Stream consists of one or more programs. Transport Stream packets begin with a 4-byte prefix, which contains a 13-bit Packet ID (PID). The PID identifies, via the Program Specific Information (PSI) tables, the contents of the data contained in the Transport Stream packet (p. 3). The examiner has characterized the PID as indirectly containing the PSI information, since the PID is mapped to the PSI information. The MPEG-2 specification further notes that PSI tables include Program Association Tables, Program Map Tables, Conditional Access Tables, and Network Information Tables. These tables contain the necessary and sufficient information to demultiplex and present programs. The Program Map Table, for instance, specifies which PIDs, and therefore which elementary streams, are associated to form each program. The Conditional Access Table is present if scrambling is employed (p. 3). The MPEG-2 specification further indicates that more tables may be included within the PSI (p. 4). For instance, event descriptions can be transmitted in private sections (p. 5). Figure C.1 in the MPEG-2 specification illustrates how PIDs are used to map program packets to tables indicating each packet's corresponding program and program description (p. 6).

Schneidewend is illustrative of the way broadcasters utilize the PSI data to send program guide information to the user. MPEG-2 packetized program information contains ancillary information including program specific data. The program specific data is used in identifying and assembling packets comprising selected programs and also includes program guide information associated with the transmitted program data. The Program and System Information Protocol for Terrestrial Broadcast and Cable (PSIP 1997) is an example of a standard that utilizes the PSI structure to transmit program description information (col. 1, l. 32-55 & col. 2, l. 40-53). Schneidewend teaches stuffing program guide information into the MPEG-2 transport stream. A video receiver processes the program specific information including the program guide information (col. 3, l. 4-15, 28-31, 54-63 & col. 4, l. 7-47, 55-60). Thus, Schneidewend is illustrative of the way broadcasters map the program guide information of the PSI to the packets containing the actual video data through use of the PIDs. Since Russo discloses automatically scanning program schedules to determine which programs to record, the examiner maintains that this characterization of a PID in an MPEG-2 stream is compatible with comparing the classification information to preference information associated with the viewer. As such, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Russo to include identifying classification information being in the headers in order to efficiently determine whether the content would be desirable to the user.